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November 10, 2009

BY HAND

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, SW
Washington, DC 20423

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Office of Proceedings
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Part of
Public Record

Re: Docket No. 42114, *US Magnesium, L.L.C. v. Union Pacific
Railroad Company*

Dear Secretary Quinlan:

In accordance with the Board's decision served November 3, 2009, in the above-referenced matter, US Magnesium, L.L.C. and Union Pacific Railroad Company have conferred and agree to proceed based on the current record, in light of their desire to avoid additional costs, uncertainty and delay. The parties are proceeding with the understanding that the Board will apply to the existing record the same "final-offer" procedure for selecting comparison groups, and all other aspects of the Three Benchmark methodology set forth in the Board's *Simplified Standards* decision served September 5, 2007.

Thank you for your attention to this matter.

Sincerely,

Thomas W. Wilcox / per
Thomas W. Wilcox
Counsel for U.S. Magnesium, LLC

Michael L. Rosenthal
Michael L. Rosenthal
Counsel for Union Pacific
Railroad Company